IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 5631 of 2005

Date of Decision: 7.12.2006

M/s Kanwar Brothers, Patiala ...Petitioner

Vs.

Smt. Prabha Khanna & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.V.M.Gupta, Advocate,
for the petitioner.

Mr.Sanjeev Sharma, Advocate,
for the respondents.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order passed by the learned Rent Controller, Patiala vide which the application moved by the petitioner under Order 6 Rule 18 read with Section 151 of the Code of Civil Procedure (for short the Code) has been rejected.

Learned counsel for the petitioners contends that by way of impugned order the learned Trial Court was not justified in holding that the petition for amendment was allowed as the operative part of the order passed by the learned Rent Controller on 27.4.2005 reads as under:-

> "Therefore, the application is allowed and applicants are ordered to be impleaded as legal heirs of deceased petitioner

and pursue the same, on the ground of personal necessity of the demised shop for themselves..."

The contention of the learned counsel for the petitioners therefore, is that the application was allowed vide which the petitioners were allowed to be impleaded as legal representatives of deceased petitioner-landlord Mohinder Khanna for personal necessity of demised premises and therefore, the learned counsel for the petitioners contends that the reading of the operative part of the order does not show that the application moved by the petitioner under Order 6 Rule 17 was also allowed.

Learned counsel for the petitioners further contends that as the order is not in consonance with the law laid down by Hon'ble Supreme Court in **Gurdial Singh & Ors. Vs. Raj Kumar Aneja & Ors. 2002 (2) SCC** 445 as the petitioners had not filed the amended petition along with the application for amendment and therefore, it should be deemed to have been rejected as no order was passed. I find no force in the contention raised by the learned counsel for the petitioners.

The learned Trial Court on appreciation of order passed has come to the positive conclusion that the application moved by the petitioners under Order 6 Rule 17 of the Code and also one moved under Order 1 Rule 10 of the Code was allowed by way of composite order. The learned Rent Controller has further taken note of the fact that the observation made in order was very clear that the application for amendment was allowed. Even otherwise, the operative part of the order referred to above shows that the petitioners were allowed to pursue the eviction petition on the ground of personal necessity which could not be

done unless petition as filed was allowed to be amended as the original petitioner had died and the petitioners were brought on record as his legal representatives.

The judgment relied upon by the petitioners would also not apply to the facts and circumstances of the case as before the Rent Controller the provisions of Code are not strictly applicable so as to non-suit the petitioners on technical ground of application not having been framed in terms of the order 6 Rule 17 of the Code.

No ground is made out which may call for interference in the impugned order by this court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

7.12.2006
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